IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Income Tax Application No.418 of 2001
(Old No. 186 of 1998)

The Commissioner of Income Tax,
Meerut …… Applicant

Vs.

Oil and Natural Gas Commission
As agent of Melland International Inc.,
Dehradun …..…… Respondent
……..

Sri S.K.Posti, Advocate for the appellants
Sri J.P. Joshi, for the respondents

Coram: Hon. S.H.Kapadia, C.J.
Hon. P.C. Verma, J.

Date: 06.08.2003

PC:

This is an application made by the department under section 256(2) of the Income Tax Act. This application is made because the Tribunal has refused to refer the question of law to this Court.

A short point which arises for determination in this case is whether the assessee was right in contending that Tax perquisites obtained by the O.N.G.C. was includable in its total income. The department took the view that in view of section 44BB of the Income Tax Act, such perquisites were includable in the total income of the assessee. In the alternative, the department took the view that such perquisites stipulated under section 28(iv) and, therefore, even on that ground on alternative basis such benefits were includable in the total income of the assessee. This point needs to be decided by this Court. The Tribunal erred in not referring the question to this Court under section 256 of the Income Tax Act. In the circumstances, we allow the application made by the department and direct the Tribunal to draw statement of case and refer the above question of law to this Court under section 256 (1) of the Act. Since this matter pertains for the assessment year 1986-87, we request the Tribunal to expedite the procedure and process of drawing of statement of case.

Application is finally disposed of. No order as to costs.

(P.C. Verma, J.) **(S. H. Kapadia, C.J.)**

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